

1 **IN THE SUPREME COURT OF THE STATE OF MONTANA**

2 Supreme Court Cause No. DA 10-0359

3 RICHARD A. HILL and BETTI C. HILL, HILL-
4 NORTH STAFFORD LLC, a Delaware limited
5 liability company, R. HILL - OAK WOOD
6 PLAZA, LLC, a Delaware
7 limited liability company, B. HILL - OAK WOOD
8 PLAZA LLC, a Delaware limited liability
9 company, GEORGE L. ST EVENS and
10 GERTRUDE L. STEVENS, G. STEVENS-
11 PINEHURST SQUARE WEST LLC, a
12 Delaware limited liability company, G.L.
13 STEVENS-PINEHURST ACQUISITION LLC, a
14 Delaware limited liability company, G. STE
15 VENS-OAK WOOD PLAZA LLC, a Delaware
16 limited liability company, G.L. STEVENS OAK
17 WOOD PLAZA LLC, a Delaware limited liability
18 company, and VICTOR J. DONOVAN
19 and RITA M. DONOVAN,

20 Plaintiffs and Appellants,

21 v.

22 JACK RAY SAUTHER, CHRISTOPHER JAMES
23 NOLT, 1031 EXCHANGE SOLUTIONS LLC, a
24 dissolved Montana limited liability company,
25 MONTANA WEALTH MANAGEMENT LLC, a
26 Montana limited liability company,
27 INDEPENDENT FINANCIAL GROUP LLC, a
Delaware limited liability company,

 Defendants and Appellees.

**MOTION FOR LEAVE
TO APPEAR
AMICUS CURIAE**

FILED

FEB 18 2011

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

25 Monica J. Lindeen, Montana State Auditor and *Ex Officio* Securities
26 Commissioner (the "Commissioner"), respectfully seeks leave of this Court to
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1 file an *Amicus Curiae* brief in this matter. This motion is made pursuant to Rule
2 12(7), Mont. R. App. P.

3 A brief of an amicus curiae may be filed only upon invitation or leave
4 of the supreme court granted on motion. A motion for leave shall
5 identify the interest of the applicant, state the reasons why a brief of an
6 amicus curiae is desirable, identify the party whose position amicus
7 supports, provide the date upon which the brief can be filed, and
8 indicate whether the other party consents to the request.

9 Rule 12(7), Mont. R. App. P.

10 The Commissioner's interest in this matter is protecting Montana
11 investors, persons engaged in securities transactions, and the public interest
12 relative to the enforcement of the Securities Act of Montana, Mont. Code
13 Ann. § 30-10-101, *et seq.* (the "Act"). The significance of this matter extends
14 beyond the parties to this appeal because precedent set by this matter may
15 affect Montana investors whose interests the Commissioner is charged to
16 protect.

17 Since it is the Commissioner's duty to regulate securities transactions
18 in Montana, and since this matter involves interpretation of public policy and
19 established precedent regarding the enforceability of pre-dispute arbitration
20 clauses relating to security transactions in Montana, it is desirable and
21 appropriate that this Court entertain this motion and grant the Commissioner
22 leave to file a brief of *amicus curiae*. The Commissioner supports the
23 position of the Plaintiffs and Appellants. The date upon which the brief may
24 be filed is April 18, 2011, or as soon as this Court may order. Counsel for the
25 parties have been contacted regarding this motion. Plaintiffs and Appellants
26 were contacted by telephone and do not oppose this motion. Defendants and
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1 Respondents were sent emails and have not responded. It is not known
2 whether Defendants and Respondents oppose this motion.

3 Therefore, Monica J. Lindeen, Commissioner of Securities and
4 Insurance, Montana State Auditor, respectfully requests leave of Court to
5 participate in this matter as *amicus curiae*.

6
7 RESPECTFULLY SUBMITTED this 18th day of February, 2011.
8

9
10 MONICA J. LINDEEN
11 Commissioner of Securities and
12 Insurance, Montana State Auditor
13 840 Helena Avenue
14 Helena, MT 59601

15 By: 
16 MIKE WINSOR
17 Special Assistant Attorney General
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3 CERTIFICATE OF SERVICE
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5 I hereby certify that this 18th day of February 2011, I caused a true
6 and accurate copy of the foregoing Motion for Leave to Appear Amicus
7 Curiae to be mailed to:
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